## REMARKS

Claims 1-30 are canceled. Claims 31-44 are added.

Claims 18-19, 21, 28 and 30 are rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,456,883 issued to Torgerson et al. Claims 23-27 and 29 are rejected under 35 U.S.C. § 102(e) or, in the alternative, under 35 U.S.C. § 103(a) over Torgerson. Claims 18-19, 28 and 30 are rejected under 35 U.S.C. §103(a) based upon U.S. Patent No. 6,044,295 issued to Pilz et al. Claims 18-30 are rejected under 35 U.S.C. §103(a) based upon U.S. Patent No. 4,096,866 issued to Fishell.

Claim 31 is directed to an implantable medical device. The IMD includes a control circuit, a communication circuit, a battery, a rechargeable battery, and a sensor. The "control circuit ... control[s] the operation of the implantable medical device ... to obtain physiological data from a patient in which the implantable medical device is implanted." The "communication circuit [being] coupled to the control circuit to transmit the physiological data to an external device." The "battery positioned within the device and coupled to the control circuit to provide power to the control circuit." The "rechargeable battery [being] coupled in parallel to the battery, the rechargeable battery positioned within the device and coupled to the communication circuit to provide power to the communication circuit." The "sensor coupled to the battery and rechargeable battery to sense the remaining power level of at least one of the battery and rechargeable battery." As noted in the specification on page 10, third full paragraph,

> **Connecting the cells 60B, 62B in parallel**, via the circuitry 56B, to the high-power output circuit 50 and the low-power control circuit 52 **allows for both cells 60B, 62B to power the low-power control circuit 52, thereby extending the useful life of the power source 54B**.

None of the cited references disclose, teach or suggest the "rechargeable battery [being] coupled in parallel to the battery." Additionally, claim 41 includes "a switch to couple the battery to the communication circuit upon occurrence of a first predetermined event, wherein the first predetermined event includes the sensor sensing the remaining power level of the rechargeable battery being below a remaining power level threshold " and a "single feedthrough As to the switch, the Application on page 10 states:

> Further, as with the power source/circuitry configuration A (FIG. 3) previously described, the **switch 80 ensures low-power control circuit 52 operation during transient high power pulses by the high-power output circuit 50**. For example, when the high power output circuit 50 is prompted to deliver a high power pulse or charge, the circuitry 56B opens the switch 80 to uncouple the high-rate cell 60B from the low-power control circuit 52. **The lower-rate cell 62B remains electrically connected, providing continuous, uninterrupted power to the low-power control circuit 52**.

None of the cited references disclose, teach or suggest this feature.

Claim 44 includes "a rechargeable battery coupled to the battery in parallel with a single feed-through." None of the cited references disclose, teach or suggest this feature.

Additionally, Applicants respectfully assert that it had challenged the USPTO's obviousness rejections, which encompassed the USPTO's taking Official Notice of certain claimed elements. While communication circuits are known in the medical arts, the inclusion of a communication circuit with the other elements of claim 31 is novel and non-obvious, as evidenced by the fact that none of the cited references include such a configuration. Applicants respectfully request that the examiner provide such a reference. Withdrawal of the instant rejections and issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,

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Date

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